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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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Serial No.: 09/515,310 Examiner: Dodds, Harold E.

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For: SIZING SERVERS FOR DATABASE MANAGEMENT SYSTEMS VIA USER DEFINED WORKLOADS

Docket No.: RA-5244 (1028.1124101)

SUPPLEMENTAL DECLARATION UNDER RULE 1.131

Mail Stop AF
Commissioner for Patents
PO Box 1450
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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this paper is being facsimile transmitted to the United States Patent and Trademark Office on the date shown below.

Lynn Thompson 4-23-04

Lynn Thompson Date

Dear Sir:

This Supplemental Declaration supplements my original Declaration signed on October 23, 2003 and filed with the United States Patent Office on October 27, 2003 in the above-identified patent application.

I, John M. Quernemoen, as the sole inventor of the claimed inventions of the above-identified application, declare as follows:

This Declaration is to establish reduction to practice of the inventions in this application

in the United States, at a date prior to April 30, 1999, which is the effective filing date of the Yang et al. patent (U.S. Patent No. 6,542,845).

Facts and Documentary Evidence

All work on the inventions included in the above-identified application was completed in the United States.

The invention included in this application was reduced to practice prior to April 30, 1999. As evidence of this, attached hereto as Exhibit 2 is a true and accurate copy of an e-mail from myself to a number of employees within Unisys, with only the dates redacted. The date identified on the e-mail (which has been redacted in the attached copy) indicates that the email was sent prior to April 30, 1999.

The e-mail shown in Exhibit 2 documents that an updated version of the NT sizer program was completed and distributed to the recipients identified in the e-mail. The email also documents that two attachments were provided, including an NTSizer_280.exe file and an NT Sizer User Guide.exe file.

The NTSizer_280.exe file contained software that implemented the claimed invention in the above-identified application. The NT Sizer User Guide.exe file contained the User Guide for the NTSizer_280.exe software. Both of the forgoing files were attached to the e-mail shown in Exhibit 2, which establishes that the NTSizer_280.exe software and the NT Sizer User Guide were completed prior to April 30, 1999.

Attached hereto as Exhibit 3 is a true and accurate copy of the NT Sizer User Guide, with only the dates redacted. The submission of the NT Sizer User Guide shown in Exhibit 3 is not intended to establish an enabling disclosure of the present invention, but rather is provided as

evidence of the existence and functionality of the NTSizer_280.exe software. This software is a reduction to practice of the claimed invention.

The NT Sizer User Guide shown in Exhibit 3 was not published prior to February 28, 1999, which is one year prior to the filing date of the above-identified application; neither were any prior versions of the NT Sizer User Guide. The NT Sizer User Guide shown in Exhibit 3, as well as all prior versions of the NT Sizer User Guide, were held as Confidential and Proprietary within Unisys prior to February 28, 1999. The same is true for the NTSizer_280.exe file, identified as the accompanying software, and all prior versions thereof.

The NT Sizer User Guide documents that the NTSizer_280.exe software implemented a method for determining computer hardware requirements for a yet-to-be built database management system server. More specifically, and referring to claim 1, the NT Sizer User Guide documents that the method implemented by the NTSizer_280.exe software may include the step of obtaining at least one user defined workload requirement, wherein the user defined workload requirement includes a plurality of inputs from a user including a maximum desired processor utilization (see, for example, the Max Processor Utilization, %, in the lower left quadrant of the dialog box on page A-21 of the NT Sizer User Guide; see also the "Maximum Utilization, %" portion of the dialog box on page A-24 of the NT Sizer User Guide) and a transactions per second requirement (see, for example, the tpmC Requirement, in the lower left quadrant of the dialog box on page A-21 of the NT Sizer User Guide).

The NT Sizer User Guide also documents that the method implemented by the NTSizer_280.exe software may include the step of determining the database management system server hardware requirements for the yet-to-be built database management system server as a

function of said user defined workload requirement (see, for example, the lower right quadrant of the dialog box on page A-21 of the NT Sizer User Guide; and the dialog box on page A-28 of the NT Sizer User Guide). The NT Sizer User Guide also documents that the method implemented by the NTSizer_280.exe software may include the step of outputting said yet-to-be built database management system server requirements (see, for example, the lower right quadrant of the dialog box on page A-21 of the NT Sizer User Guide; and the dialog box on page A-28 of the NT Sizer User Guide).

With respect to claim 3, the NT Sizer User Guide also documents that the method implemented by the NTSizer_280.exe software may include the step of obtaining at least one user defined workload requirement (see, for example, the tpmC Requirement, in the lower left quadrant of the dialog box on page A-21 of the NT Sizer User Guide; see also Section 3.4.2.4.1 which is entitled "Workload Definition Process"). The NT Sizer User Guide also documents that the method implemented by the NTSizer_280.exe software may include the step of determining the database management system server hardware requirements for the yet-to-be built database management system server as a function of said user defined workload requirement (see, for example, the dialog box on page A-28 of the NT Sizer User Guide).

The NT Sizer User Guide also documents that the method may include the step of outputting said yet-to-be built database management system server requirements, wherein said database management system server requirements include a number of processors requirement (see, for example, the CPU Requirement in the dialog box on page A-28 of the NT Sizer User Guide), a memory size requirement (see, for example, the Memory Requirement in the dialog box on page A-28 of the NT Sizer User Guide), and a mass storage requirement (see, for

example, the Mass Storage Requirement in the dialog box on page A-28 of the NT Sizer User Guide)) for the yet-to-be built database management system server.

With respect to claim 4, the NT Sizer User Guide documents that the method implemented by the NTSizer_280.exe software may include the step of obtaining at least one user defined workload requirement (see, for example, Section 3.4.2.4.1 of the NT Sizer User Guide, which is entitled "Workload Definition Process").

The NT Sizer User Guide also documents that the method implemented by the NTSizer_280.exe software may include the step of determining the database management system server hardware requirements for the yet-to-be built database management system server as a function of said user defined workload requirement (see, for example, the dialog box on page A-28 of the NT Sizer User Guide).

The NT Sizer User Guide also documents that the method implemented by the NTSizer_280.exe software may include the step of outputting said yet-to-be built database management system server requirements, wherein said database management system server requirements include an expected effective CPU utilization (see, for example, the Effective CPU Utilization in the dialog box on page A-28 of the NT Sizer User Guide) for the yet-to-be built database management system server based on the user defined workload requirements.

With respect to claim 5, the NT Sizer User Guide documents that the method implemented by the NTSizer_280.exe software may include the step of obtaining at least one user defined workload requirement (see, for example, Section 3.4.2.4.1 of the NT Sizer User Guide, which is entitled "Workload Definition Process").

The NT Sizer User Guide also documents that the method implemented by the

NTSizer_280.exe software may include the step of determining the database management system server hardware requirements for the yet-to-be built database management system server as a function of said user defined workload requirement (see, for example, the dialog box on page A-28 of the NT Sizer User Guide).

The NT Sizer User Guide also documents that the method implemented by the NTSizer_280.exe software may include the step of outputting said yet-to-be built database management system server requirements, wherein said database management system server requirements include an expected number of users that can be supported (see, for example, the No. of Users Supported in the lower right quadrant of the dialog box on page A-21 of the NT Sizer User Guide) by the yet-to-be built database management system server based on the user defined workload requirements.

With respect to claim 8, the NT Sizer User Guide documents that the NTSizer_280.exe software implemented a method that may include the step of obtaining from a user a plurality of transaction definitions (see, for example, section 3.4.2.4.1 beginning one page A-25 of the NT Sizer User Guide), wherein each of said transactions definitions have a transaction workload contribution (see, for example, "Specify each transaction's composition" shown just below the middle of page A-25 of the NT Sizer User Guide; and Section 3.4.2.4.2 of the NT Sizer User Guide beginning on page A-26) and an expected execution rate per second (see, for example, "Specify each transaction's load on the system" shown just below the middle of page A-25 of the NT Sizer User Guide, and the "Txn/Sec" column in the table shown near the bottom of page A-25 of the NT Sizer User Guide).

The NT Sizer User Guide also documents that the method implemented by the

NTSizer_280.exe software may also include the steps of calculating a total expected workload as a function of said transaction definitions and outputting the total workload to said human user (see, for example, the dialog box on page A-28 of the NT Sizer User Guide, the dialog boxes on page A-32 of the NT Sizer User Guide; and Section 3.4.2.4.1 beginning on page A-25 of the NT Sizer User Guide).

With respect to claim 16, the NT Sizer User Guide documents that the NTSizer_280.exe software implemented a method for determining computer hardware requirements for a yet-to-be built database management system server using a user defined workload. The NT Sizer User Guide documents that the method may include the step of obtaining from a user a plurality of transaction definitions (see, for example, section 3.4.2.4.1 beginning one page A-25 of the NT Sizer User Guide), wherein each of said transactions definitions have a transaction workload contribution (see, for example, "Specify each transaction's composition" shown just below the middle of page A-25 of the NT Sizer User Guide; and Section 3.4.2.4.2 of the NT Sizer User Guide beginning on page A-26) and an expected execution rate per second (see, for example, "Specify each transaction's load on the system" shown just below the middle of page A-25 of the NT Sizer User Guide, and the "Txn/Sec" column in the table shown near the bottom of page A-25 of the NT Sizer User Guide).

The NT Sizer User Guide also documents that the method may include the step of determining a total expected workload as a function of said transaction definitions (see, for example, the dialog boxes on page A-32 of the NT Sizer User Guide; also see Section 3.4.2.4.1 beginning on page A-25 of the NT Sizer User Guide). The NT Sizer User Guide also documents that the method may include the step of determining the database management system server

hardware requirements for the yet-to-be built database management system server as a function of said total expected workload requirement (see, for example, the dialog box on page A-28 of the of the NT Sizer User Guide).

With respect to claim 21, the NT Sizer User Guide documents that the NTSizer_280.exe software implemented a method for determining computer hardware requirements for a yet-to-be built database management system server using a user defined workload. The NT Sizer User Guide documents that the method may include the step of obtaining from a user a plurality of transaction definitions (see, for example, section 3.4.2.4.1 beginning one page A-25 of the NT Sizer User Guide), wherein each of said transactions definitions have a transaction workload contribution (see, for example, "Specify each transaction's composition" shown just below the middle of page A-25 of the NT Sizer User Guide; and Section 3.4.2.4.2 of the NT Sizer User Guide beginning on page A-26) and an expected execution rate per second (see, for example, "Specify each transaction's load on the system" shown just below the middle of page A-25 of the NT Sizer User Guide, and the "Txn/Sec" column in the table shown near the bottom of page A-25 of the NT Sizer User Guide).

In view of the foregoing, and in view of the above submitted evidence, the invention as defined by the claims in the above-referenced application was reduced to practice prior to April 30, 1999.

This Supplemental Declaration, as well as my original Declaration, are given to further prosecution of the above-referenced patent application, and for no other purposes.

All statements made herein are of my own knowledge and are true and all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

Respectfully submitted,

Date: April 22, 2004

John M. Quernemoen